

call records for a 14-day period for all call attempts originating from LEC-owned and privately-owned payphones for five of its local exchange carriers.<sup>15</sup> This study showed a total of 1,184,132 dial-around operator services calls, and a total of 3,287,156 calls made to 800 subscriber numbers. Second, an APCC member conducted a similar study showing that of 510,365 calls that were non-revenue-generating, only 172,194 were dial-around operator services calls (i.e., access code calls).<sup>16</sup> Combining data from both of the studies results in a total of 1,356,326 operator services dial-around calls (access code calls) and a total of 4,981,653 non-revenue-generating calls, with the dial-around operator services calls accounting for 27% of the total. If payphone providers are to be compensated for all non-revenue-generating calls, and the 25¢ per dial-around call can be assumed to have fairly compensated them for the costs of all such calls, as Sprint believes is reasonable, then the proper unit charge would be 6.75¢ per call.<sup>17</sup>

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<sup>15</sup> See ex parte letter from Sprint, dated December 23, 1994, in CC Docket No. 92-77. The letter is also appended as Attachment 1 to APCC's August 17, 1994 ex parte letter in CC Docket No. 91-35.

<sup>16</sup> That study is appended as Attachment 2 to APCC's August 17, 1995 ex parte letter in CC Docket No. 91-35.

<sup>17</sup> \$.25 times 27% equals \$.0675. Applying this rate to all non-revenue-generating calls produces the same revenues as applying a \$.25 rate to dial-around operator services calls.

If the Commission institutes a per-call compensation plan, the level of the per-call charge must be uniform nationwide. It would be an administrative nightmare for IXCs to keep track of different compensation levels by PSP, or even by state.

In ¶138, the Commission also seeks comment on whether this compensation level should be permitted to change in the future and whether a cost index or price cap system should be employed for that purpose. To the extent that the payphone costs are fixed and do not vary with the volume of calls, one would expect that secular growth in call volumes would warrant an annual downward adjustment in the compensation rate. Moreover, the secular trend in telecommunications unit equipment costs in general is downward as well, which would also indicate that a downward annual adjustment might be in order. At the very least, there is no reason to allow any annual increase tied to inflation in the economy as a whole. In the absence of detailed data on call volume trends from payphones and equipment costs, Sprint suggests that the Commission merely maintain its initial rate for a period of time (e.g., five years) and periodically review the sufficiency of the compensation from time to time thereafter.

The Commission also seeks comment, in ¶39, on whether it should provide PPOs some measure of interim compensation to be paid until final rules in this proceeding take effect. Sprint is skeptical that such a compensation system could be put in place by the industry prior to the effective date of rules establishing a permanent compensation plan. Moreover, there is no clear showing of need by the PPOs for such compensation. Since, as the analysis above would indicate, the 25¢ per call rate PPOs are receiving from AT&T and Sprint fully compensates them for other calls not currently compensable, and the per-call charge implicit in the per-line charge they receive from other IXCs is even greater, there is no reason to believe they are entitled to any additional compensation at this time.

**B. RECLASSIFICATION OF INCUMBENT LEC-OWNED PAYPHONES**

**2. Discussion**

**a. Classification of LEC Payphones as CPE**

Sprint agrees with the Commission's tentative conclusion (¶44) that LEC payphones should be classified as CPE for Computer II regulatory purposes but that structural separation should not be required. Sprint also agrees that LECs should be required to offer central office coin transmission services to PSPs under a non-discriminatory, public, tariffed offering (¶45) and that such an offering should be treated as a "new service" for purposes of price cap rules (see ¶46). Sprint

also shares the Commission's view (§47) that the demarcation point for LEC payphones should be consistent with standards for other LEC services. However, Sprint does not believe the Commission should require LECs to offer any of the additional payphone-related services mentioned in §48 as tariffed offerings at the present time. Some of the services mentioned in §48 -- installation and maintenance services, and joint marketing opportunities -- are not communications common carrier services and are not subject to Title II of the Act. The only fraud prevention service the Sprint LECs provide is part of the coin transmission service and would be implicit in that tariffed offering.<sup>18</sup> As far as Sprint is aware, per-call tracking capabilities -- at least for completed calls -- do not exist in the LEC industry today and thus cannot be offered as tariffed services. Finally, call validation services are available through the tariffed LIDB access service and need not be the subject of further regulatory requirements at this time.

**b. Transfer of Payphone Equipment to  
an Unregulated Status**

Sprint agrees with the Commission's tentative conclusion (§49) that the assets to be transferred to non-regulated operations should relate to the payphones themselves and

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<sup>18</sup> To the extent that specialized numbers are used as a fraud protection mechanism, such numbers should be available on a nondiscriminatory basis.

should not include loops or central office coin service or operator service facilities. However, the Commission mischaracterizes its rules in suggesting (id.) that such assets should be transferred at undepreciated cost plus interest at rates equal to the authorized interstate rate of return. As is clear from the Joint Cost Order cited in n.147, such a standard is only used when LECs have underforecasted the nonregulated usage of plant used both for regulated and nonregulated services. The longstanding cost basis for plant transferred from regulated accounts to nonregulated accounts, because of a change in the regulatory treatment of a type of plant, is net book costs.<sup>19</sup> The Commission has provided no basis for departing from that longstanding standard.

**c. Termination of Access Charge Compensation and Other Subsidies**

Sprint is in general agreement with the Commission's tentative conclusions in ¶¶51-54. Specifically, Sprint agrees that incumbent LECs should reduce their interstate CCL charges by an amount equal to the interstate allocation of payphone costs currently recovered through those charges, and that price cap LECs should treat this as an exogenous cost change to the common line basket. Sprint is not aware of any comparable subsidies in intrastate access charges, but if they

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<sup>19</sup> See Second Computer Inquiry, 95 FCC 2d 1276, 1306 (1983); and 3 FCC Rcd 477 (1988).

do exist, the states should be given a reasonable deadline for eliminating such subsidies.

Sprint further agrees with the Commission's tentative conclusions that a subscriber line charge should apply to lines that terminate on LEC-owned payphones as well as privately owned payphones and that, to the extent that the multi-line business SLC is less than the full interstate cost of subscriber lines, there should be an additional charge both to the LECs and to PPOs, to recover the difference between full interstate costs and the SLC cap.<sup>20</sup> Comparable changes should also be made to the incumbent LECs' intrastate rates to the extent that the charge for the local lines used to provide payphone service are less than costs.

**C. NONSTRUCTURAL SAFEGUARDS FOR BOC PROVISION OF PAYPHONE SERVICE**

Sprint agrees with the Commission's tentative conclusion (§58) that the nonstructural safeguards adopted in Computer III should apply to a BOC's provision of payphone service to satisfy the Commission's obligations under §276(b)(1)(C). Sprint notes that the Commission is proposing to leave the BOCs' obligations with respect to CPNI to its separate proceeding in CC Docket No. 96-115. It should be pointed out, however, that the latter proceeding only sought to clarify

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<sup>20</sup> In this regard, the Commission should make clear that the multi-line business SLC, rather than the single-line SLC, is applicable to PSPs.

carriers' duties under §222(c) of the Act and did not discuss carriers' obligations under §222(a) and (b). RBOCs will have access to proprietary information of both PPOs and IXC's in connection with their provision of payphone service and access services to PPOs, and the Commission should make clear, in its rules in this proceeding, that they must protect the confidentiality of that information and must take steps to ensure that they cannot use such information for their own marketing efforts.

**D. ABILITY OF BOCs TO NEGOTIATE WITH LOCATION PROVIDERS ON THE PRESUBSCRIBED INTERLATA CARRIER**

Sprint believes that the RBOCs, GTE, and all other LECs should have the same right that private payphone providers have to select and contract with the presubscribed interLATA carriers for their payphones. If the RBOCs and other LECs are required to treat their payphones as deregulated CPE, and to remove the costs of their payphone operations from their access charges, then it is only fair that they should have the right to engage in the same types of arrangements as PPOs in order to receive revenues from presubscribed IXC's. Otherwise, they will be unduly hampered in their ability to compete with PPOs.

The Commission, in ¶72, asks whether giving the BOCs this right is likely to permit them to behave anticompetitively and whether the Commission should be concerned that the RBOCs, if

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they are allowed to provide interLATA service, will direct such service to themselves. Sprint believes that it is natural to assume that the RBOCs will give their payphone traffic to themselves. However, any anticompetitive effects of such self-dealing are best addressed by not permitting the RBOCs to provide in-region interexchange services until their local bottleneck power has effectively been broken. The Commission should also impose strict accounting and other safeguards, including an imputation requirement, to ensure that the RBOCs are not giving more favorable treatment to themselves than to other payphone operators or long distance carriers.

Sprint also agrees with the Commission's tentative conclusion (§73) that §276(b)(3) grandfathers existing contracts between location providers and payphone service providers or carriers that were in force on the date of enactment of the 1996 Act, but that such a contract, to be grandfathered, must contain binding obligations applicable to both parties. A simple LOA authorizing an IXC to make a PIC change, having no mutuality of obligations (e.g., no agreement by the premises owner to subscribe to the IXC's service for any fixed length of time) should not be regarded as such a contract.



**E. ABILITY OF PAYPHONE SERVICE PROVIDERS TO NEGOTIATE WITH LOCATION PROVIDERS ON THE PRESUBSCRIBED INTRALATA CARRIER**

Sprint supports the Commission's tentative conclusion that all PSPs should be given the right to negotiate with location providers concerning the intraLATA carrier serving the payphone, and that the intraLATA carrier should be required to meet minimum standards for routing and handling of emergency calls. The statute clearly obligates the Commission to do so and such a right is consistent with the intent of the Act to place all payphone providers on an equal competitive footing.

**F. ESTABLISHMENT OF PUBLIC INTEREST PAYPHONES**

In ¶¶77-82, the Commission seeks comment on whether "public interest" payphones should be maintained and, if so, how such phones should be supported. It offers options ranging from federal maintenance of these payphones (¶78), to national guidelines to be implemented by the states (¶¶79-80), to deferring to the states to determine which payphones should be treated as public interest payphones (¶81). Sprint believes that it would be impractical for this Commission to attempt to determine which of the nearly two million payphones in operation today must be maintained for public interest purposes. Thus, Sprint urges the Commission to presume that marketplace forces will provide payphones in locations where they are needed. Payphones that are not commercially viable

but are needed for emergency access or safety or health reasons mentioned in this statute can more properly be viewed as part of the provision of universal service. At the present time, some of the states in which the Sprint LECs operate require maintenance of at least one payphone in each local exchange. It is far from clear to Sprint that there is any need for such requirements today. If any states believe that specific payphones should be maintained in specific locations (or that a payphone must be provided in each local exchange) the states should be obligated to fund those phones in a competitively neutral manner pursuant to §254.

**G. OTHER ISSUES**

**1. Dialing Parity**

Sprint supports the Commission's tentative conclusion (§84) that the benefits of dialing parity requirements adopted in §251(b)(3) of the Act should extend to all payphone providers and that the interLATA unblocking requirements established pursuant to §226 should extend to all local and long distance calls.<sup>21</sup>

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<sup>21</sup> Sprint presumes that the reference in §84 to "intraLATA carrier unblocking requirements" was a typographical error.

## **2. Letterless Keypads**

Sprint also agrees with the Commission's tentative conclusion (¶87) that the use of letterless keypads violates both §226 and the 1996 Act by preventing callers from accessing their preferred operator service provider. Moreover, letterless keypads can also frustrate callers attempting to call subscriber TFC numbers that are verbally significant. The Part 68 rules should be amended to require that keypads for all pay telephones attached to the network include both the standard alphabetical and numerical characters. Furthermore, if a compensation plan is established, the regulations should provide that no IXC should be obligated to pay any compensation to any PSP having one or more phones that violate this requirement.

## **CONCLUSION**

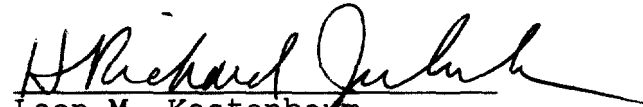
Sprint reiterates its belief that the foremost consideration in this proceeding is that the public must ultimately pay for any per-call compensation plan the Commission adopts. In order to protect the interests of the public, the Commission should not embark on such a program until it is convinced by clear evidence that payphone service providers need revenue streams over and above those which they can already influence or control in order to fairly compensate them for all calls made from their payphones, and should take

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all possible steps to ensure that any such compensation  
program not result in charges that are in excess of costs.

Respectfully submitted,

SPRINT CORPORATION

A handwritten signature in dark ink, appearing to read "H. Richard Juhnke", is written over a horizontal line.

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